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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/777,378 | 02/06/2001 | Hiroaki Kitamoto | Kanzaki Case 161 | 8381 |

7590 01/13/2003
FLYNN, THIEL, BOUTELL & TANIS, P.C.
2026 Rambling Road
Kalamazoo, MI 49008-1699

EXAMINER

NASH, BRIAN D

ART UNIT PAPER NUMBER

3721

DATE MAILED: 01/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

S.M.

Office Action Summary

Application No.

09/777,378

Applicant(s)

KITAMOTO, HIROAKI

Examiner

Brian D Nash

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This action is in response to the amendment received 31 October 2002. It is acknowledged, *inter alia*, that claims 1-9 have been cancelled and new claims 10-20 have been added.

Information Disclosure Statement

2. Information disclosure statement identified as an enclosed document filed with the application is not found in application

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 10-11, 14, 16-17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,321,935 to Spatz et al. Spatz discloses the same invention including a capping device having a capping head (5) that clamps a cap (3), vertically places and screws the cap (3) onto a vessel (1), measures and reacts to a change in force on cap (3,13,15,17), while rotating the cap (3) to a predetermined torque (see column 4, lines 10-43) through at least one complete revolution (see column 5, lines 4-6), and stops rotation after predetermined torque is achieved; comprising an elevating means (see column 4, lines 3-12), a measuring means(13), an angle detection means (17), and a control means (19); wherein the acting force is a rotational force.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,321,935 to Spatz et al. in view of US 5,400,564 to Humphries et al. As discussed above in paragraph 4 of this office action, Spatz discloses the claimed invention but does not include the rotation of the cap in a direction opposite to the clamping direction, i.e. a thread disengaging direction.

However, Humphries teaches thread disengagement by rotating the cap in the unscrewing sense (see Humphries, column 1, line 65 – column 2, line 4) for the purpose of disengaging the screwhead from the cap.

In view of Humphries, it would have been obvious to one having ordinary skill in the art to have provided Spatz with the disengagement means in order to remove the screwhead from the cap.

7. Claims 13, 15, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,321,935 to Spatz et al. and US 5,400,564 to Humphries et al. as applied to claim 12 above, and further in view of US 5,685,552 to Barca. As discussed above in paragraph 6 of this office action, Spatz and Humphries disclose the claimed invention but do not include rotating the cap in the clamping direction during its descent or measuring a vertical load acting on the cap.

However, Barca teaches measuring the axial load on the cap (see Barca, column 1, line 65 – column 2, line 4) and the use of adapter to rotate the screwhead in the clamping direction

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while descending the cap toward the container in order to minimize the creation of particulate matter.

In view of Barca, it would have been obvious to one having ordinary skill in the art to have provided the adapter for measuring axial loads on the cap and rotating the screwhead in the clamping direction while descending toward the container for the purposes of eliminating or minimizing the creation of particulate matter and improve the efficiency of installing threaded plastic caps.

Response to Arguments

8. Applicant's arguments with respect to claims 10-20 have been considered but are moot in view of the new ground(s) of rejection.
9. For the reasons above, the grounds of rejection are deemed proper.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yeaton et al., Grove et al., Kinoshita et al., and Zalkin are cited to show related methods.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Nash whose telephone number is (703) 305-4959. The examiner can normally be reached on Monday – Thursday from 8 a.m. to 5 p.m. or my supervisor Rinaldi I. Rada whose telephone number is (703) 308-2187.

The fax number for this Group is (703) 305 –3579.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

Brian D. Nash
Patent Examiner
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A handwritten signature in black ink, appearing to read 'Rinaldi I. Rada', with a long horizontal flourish extending to the right.

Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700